

JUL 31 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

FRANCISCO PADUA MASCARDO,)	No. 02-70403
)	
Petitioner,)	Agency A43-101-563
)	
v.)	MEMORANDUM*
)	
JOHN ASHCROFT, Attorney)	
General,)	
)	
Respondent.)	
)	

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 8, 2003**
Pasadena, California

Before: KOZINSKI, FERNANDEZ, and RYMER, Circuit Judges.

Francisco Padua Mascardo, a citizen of the Philippines, petitions for review of a Board of Immigration Appeals' decision, which found him to be removable from the United States and denied his request for cancellation of removal. We

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

deny the petition in part and dismiss it in part.

Mascardo was removable if he was convicted of a crime of domestic violence against a person protected from his acts under state law. See 8 U.S.C. § 1227(a)(2)(E)(i). He was convicted of battery upon a person with whom he had a dating relationship. See Cal. Penal Code § 243(e)(1). Battery is a crime of violence. See 18 U.S.C. § 16; Cal. Penal Code § 242; Gunnell v. Metrocolor Labs., Inc., 92 Cal. App. 4th 710, 725, 112 Cal. Rptr. 2d 195, 206 (2001). His violence was directed against a person whom California protects under its domestic violence laws. See Cal. Penal Code § 243(e)(1) & (10); see also Cal. Penal Code § 13700(b); Cal. Penal Code § 12028.5(a)(2)(C); Cal. Fam. Code § 6211(c). Thus, the BIA did not err when it found him to be removable.

Mascardo also asks us to review the BIA's exercise of its discretion to deny him cancellation of removal. We have no jurisdiction so to do. See 8 U.S.C. § 1252(a)(2)(B)(i); Romero-Torres v. Ashcroft, 327 F.3d 887, 891 (9th Cir. 2003); Molina-Estrada v. INS, 293 F.3d 1089, 1093 (9th Cir. 2002). Although he argues that the BIA violated his right to due process, we lack jurisdiction to consider that claim because it is not colorable. See Sanchez-Cruz v. INS, 255 F.3d 775, 779 (9th Cir. 2001); Torres-Aguilar v. INS, 246 F.3d 1267, 1271 (9th Cir. 2001). Thus, we dismiss that claim.

Petition DENIED in part and DISMISSED in part.